



North Carolina Department of Environment and Natural Resources

Division of Land Resources

Land Quality Section

James D. Simons, PG, PE
Director and State Geologist

Michael F. Easley, Governor
William G. Ross Jr., Secretary

August 25, 2006

**NOTICE OF VIOLATIONS OF THE
SEDIMENTATION POLLUTION CONTROL ACT**

CERTIFIED MAIL-7002 0460 0001 9899 3608
RETURN RECEIPT REQUESTED

Mr. Seth Hendler-Voss, City of Asheville
Post Office Box 7148
Asheville, North Carolina 28802

RE: Project Name: Richmond Hill Ballfield Complex
Project ID: Bunco-2006-027
County: Buncombe
Compliance Deadline: September 25, 2006
or 30 days from receipt

Dear Mr. Hendler-Voss:

On August 23, 2006 personnel of this office inspected a project located on Richmond Hill Drive, Asheville in Buncombe County, North Carolina. This inspection was performed to determine compliance with the North Carolina Sedimentation Pollution Control Act (Act) of 1973. The inspection revealed a land-disturbing activity of approximately 7 acres being conducted.

It is our understanding that you and/or your firm are responsible for this land-disturbing activity. The purpose of this letter is to inform you that this activity was found to be in violation of the Act, G.S. 113A-50 to 66, Title 15A, North Carolina Administrative Code (NCAC), Chapter 4. If you feel that you are not responsible for the following violations, please notify this office immediately.

The violations that were found are:

- b. Failure to install all temporary and permanent erosion and sedimentation control measures as required by the approved erosion and sedimentation control plan. 15 NCAC 4B .0113. **The required erosion and sedimentation control measures as specified in the approved erosion control plan were not provided and/or adequately installed to prevent sediment**

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from leaving the construction area. Additional site disturbance has occurred outside of the approved limits of disturbance. No sedimentation control measures have been specified or designed for the additional disturbance.

- e. Failure when a land-disturbing activity that will disturb more than one acre is undertaken on a tract, to install sedimentation and erosion control devices sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract. G.S. 113A-57(3). **Adequate sedimentation control measures were not provided to prevent sediment from entering Smith Creek, a tributary to the French Broad River.**
- f. Failure to take all reasonable measures to protect all public and private property from damage by such land-disturbing activities. 15A NCAC 4B .0105. **Adequate sedimentation control measures were not provided to prevent sediment from entering Smith Creek, a tributary to the French Broad River.**
- g. Failure to retain along a lake or natural watercourse a buffer zone of sufficient width to confine visible siltation by natural or artificial means within the 25 percent of that portion of the buffer zone nearest the land-disturbing activity. G.S. 113A-57(1). **Sediment has entered Smith Creek as a result of insufficient and improperly installed sedimentation control measures.**
- j. Failure to maintain satisfactorily all temporary and permanent erosion and sedimentation control measures and facilities during the development of a site. 15 NCAC 4B .0113. **Erosion and sedimentation control measures have not been properly maintained to prevent sediment from entering Smith Creek.**

To correct these violations, you must:

1. Install erosion and sedimentation control measures according to the **approved revised plan**
2. Take all measures necessary to retain sediment on site. Sediment has entered Smith Creek.
3. Maintain all sedimentation control measures.
4. Submit a revised erosion control plan.

The penalty for an initial violation could be an assessment of up to \$5,000.00. A time period for compliance is not required for enforcement of this violation pursuant to NCGS 113A-61.1(c) and NCGS 113A-64(a)(1). Therefore, the initial violation may be referred to the Director, Division of Land Resources, for appropriate action.


Notice of Violations
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Please be advised that if these violations are not corrected within 30 days of receipt of this notice or before September 25, 2006 whichever term is longer, the Director, Division of Land Resources, will be requested to take appropriate legal action against you pursuant to NCGS 113A-64. That action could be the assessment of a civil penalty, and the amount may be up to \$5000 per day for each day of the violation. The penalty may be assessed from the date of the violation, NCGS 113A-64(a)(1). If the violations are corrected within the time period specified for compliance, no further legal action will be pursued.

Please be advised that any new land-disturbing activity associated with this project should not begin until the area presently disturbed is brought into compliance with the Act. When corrective actions are complete, you should notify this office so that work can be inspected. You should not assume that the property is in compliance with the Act until we have notified you. After installation, all erosion control measures must be maintained in proper working order until the site is completely stabilized.

We solicit your cooperation, and would like to avoid taking further enforcement action. At the same time, it is your responsibility to understand and comply with the requirements of the Act. Copies of the relevant statute and administrative rules may be examined at this office or will be sent to you upon request. Should you have questions concerning this notice or the requirements of the Act please contact either Cathy Tyndall or me at your earliest convenience.

Sincerely,


Janet S. Boyer, PE
Regional Engineer
Land Quality Section

Enclosures: Sedimentation Inspection Report

cc: Gray Hauser, PE, State Sedimentation Specialist
Roger Edwards, Regional Water Quality Supervisor

SEDIMENTATION INSPECTION REPORT

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

LAND QUALITY SECTION: 2090 U.S. Hwy. 70, Swannanoa, NC 28778 (828) 296-4500

County Buncombe Project: Richmond Hill Ballfield Complex River Basin French Brd.
 Person Financially Responsible: Seth Hendler - City of Asheville Project # 2026-027
 Address: P.O. Box 7148 - 70 Court Plaza Asheville, NC 28802

1. Project Location Richmond Hill Drive Pictures: No ☐ Yes ☒ Prints ☐ Slides ☐ Digital ☒ Video ☐
2. Weather and Soil Conditions _____
3. Is site currently under notice of violation? Yes ☐ No ☒
4. Is the site in compliance with the S.P.C.A. and the rules? Yes ☐ No ☒ If no, check violations below:
5. Violations:
- ☐ a No approved plan, G.S. 113A-57(4) and 15A NCAC 4B 0107(c)
- ☒ b Failure to follow approved plan, G.S. 113A-61.1
- ☐ c Failure to submit revised plan, G.S. 113A-54.1(b) and 15A NCAC 4B.0118(a)
- ☐ d Failure to provide adequate groundcover, G.S. 113A-57(3) and 15A NCAC 4B 0107(b) or 15A NCAC 4B 0124(e)
- ☒ e Insufficient measures to retain sediment on site, G.S. 113A-57(3)
- ☒ f Failure to take all reasonable measures, 15A NCAC 4B 0105
- ☒ g Inadequate buffer zone, G.S. 113A-57(1)
- ☐ h Graded slopes and fills too steep, G.S. 113A-57(2) or 15A NCAC 4B 0124(d)
- ☐ i Unprotected exposed slopes, G.S. 113A-57(2)
- ☒ j Failure to maintain erosion control measures, 15A NCAC 4B 0113
- ☐ k Other (describe) _____
6. NPDES Permit Violation? Yes ☒ No ☐ Describe _____
7. Has sedimentation damage occurred since last inspection? Yes ☒ If yes, where? (check all that apply): No ☐
- Lake/natural watercourse on the tract ☒ Lake/natural watercourse off the tract ☐ Other property ☐
- Description: Sediment has entered Smith Creek
- Degree of damage: Slight ☒ Moderate ☐ Severe ☐
8. Contact made with (Name) Seth Hendler, John Katscher Title _____
- Inspection Report given ☒ or sent ☐ to Person Financially Responsible Date given/sent 8/23/06
9. Corrective actions needed:

- ① Install all sediment basins/measures as shown on approved plan
- ② Take all measures necessary to retain sediment on site. Sediment has entered Smith Creek
- ③ Maintain all measures.
- ④ Submit a revised erosion control plan.

10. Comments: _____

Report by: Cathy Tyndall

Others present

Janet BoyerDate of Inspection: 8/23/06

Time arriving at site:

10:30

Time leaving site:

12:30

cc: _____

White Copy to File

Yellow Copy to Owner

Pink Copy to Environmental Technician